

MEETINGS TO DATE 20
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LANCASTER, NEW YORK
SEPTEMBER 2, 1975

A Regular Meeting of the Town Board of the Town of Lancaster, Erie County, New York, was held at the Town Hall at Lancaster, New York, on the 2nd day of September, 1975 at 8:00 P.M. and there were

PRESENT: LEO N. WEIMER, SUPERVISOR
JOSEPH R. BARNHARDT, COUNCILMAN
EDWARD A. BERENT, COUNCILMAN
PETER J. BOLENDER, COUNCILMAN
ARTEL J. METZ, COUNCILMAN

ABSENT: NONE

ALSO PRESENT: ROBERT P. THILL, TOWN CLERK
DOMINIC J. TERRANOVA, TOWN ATTORNEY
EDWARD J. FERON, JR., TOWN ENGINEER
JOHN F. LUME, HIGHWAY SUPERINTENDENT
VICTOR H. OTT, POLICE CHIEF

PUBLIC HEARING SCHEDULED FOR 8:00 P.M.:

At 8:00 P.M. the Town Board held a Public Hearing to hear all interested parties and citizens for or against the rezone petition of Josela Enterprises, Inc.

Affidavits of Publication and Posting of a Notice of a Public Hearing were presented and ordered placed on file.

The Town Clerk presented copies of letters which were mailed Certified Mail, Return Receipt Requested, to the Petitioner, the Erie County Department of Planning, and the Town Clerk of the Town of Cheektowaga notifying these individuals of the time and place of this Public Hearing.

The Town Clerk presented a Zoning Coordination Referral from the Erie County Department of Planning wherein the Department acknowledged receipt of a Notice of this Public Hearing and commented as follows:

The proposed zoning action is subject to review; the Department makes the recommendation shown on Form ZR-4, Recommendation on Proposed Zoning Action, which is attached hereto.

Based on the information received.

The Erie County Planning Division recognizes that this request for rezoning is for the same property outlined in our Case No. 73 - 200 submitted to the County on June 7, 1973 for which a public hearing was held by the Town on June 18, 1973.

This Division feels that the objections cited in its recommendation of June 15, 1973 still apply even though there have been modifications made to the development plan. Please refer to the recommendations of that date. Therefore, this Division is recommending denial of the proposed rezoning:

ADDITIONAL COMMENT:

1. The New York State Department of Transportation (DOT) has objections to the design, including the proposed radii of the drive intersection at Transit Road.
2. The Erie County Department of Environmental Quality (DEQ) reports that if it is planned to connect into the District #1 sewer system, it should be noted that there has recently been a disapproval of a proposed subdivision in the district because of inadequate downstream sewer capacity, and the district's application for a S. P. D. E. S. (State Pollutant Discharge Elimination System) discharge permit for sewage overflows is presently being reviewed. If a private sewage treatment system is planned, that system would need a S. P. D. E. S. permit from the state, and DEQ's review and approval would be required.

The Town Clerk presented a letter from Tryon and Schwartz, retained consultants of the Town of Lancaster, to the Planning Board recommending a favorable review of this proposed rezone.

The Town Clerk presented a letter from the Town of Lancaster Planning Board to the Town Board recommending approval of the proposed rezone.

PROPOSERS:

ADDRESS

Joseph Giallanza, President,
Josela Enterprises, Inc.

2740 Bowen Road, Elma, New York

OPPOSERS:

ADDRESS

None

ON MOTION BY COUNCILMAN BOLENDER, AND SECONDED BY COUNCILMAN METZ
AND CARRIED, by unanimous roll call vote, the Public Hearing was closed
at 8:08 P.M.

OFFICIAL REPORTS:

The Town Clerk reported that the following departments of the Town of Lancaster have filed with him their Monthly Reports as follows:

| <u>DEPARTMENT</u> | <u>MONTH OR MONTHS OF</u> |
|--------------------|---------------------------|
| Building Inspector | August, 1975 |
| Zoning Inspector | July, 1975 |

The Town Clerk reported that the following Board of the Town of Lancaster has filed with him minutes of their meeting as follows:

| | |
|----------------|-------------------------------|
| Planning Board | Meeting #11 August 6, 1975 |
|----------------|-------------------------------|

COMMITTEE REPORTS:

Supervisor Weimer presented a letter and report prepared by Clarence Rainess & Co. entitled "Economic Overview of the Municipalization of a Fuel Gas Distribution System" for the Town of Lancaster. The Supervisor indicated that Mr. William D. Mahaney will be present at the next regular meeting to explain the report and to answer any inquiries concerning the study.

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCILMAN BARNHARDT, WHO MOVED
ITS ADOPTION, SECONDED BY COUNCILMAN
BOLENDER, TO WIT:

RESOLVED, that the minutes of the Regular Meeting of the Town Board,
held on August 18, 1975, and the minutes of the Special Meeting of the Town
Board held on August 22, 1975, as presented by the Town Clerk, be and hereby
are approved.

The question of the adoption of the foregoing resolution was duly
put to a vote on roll call, which resulted as follows:

| | | |
|----------------------|-------|-----|
| COUNCILMAN BARNHARDT | VOTED | YES |
| COUNCILMAN BERENT | VOTED | YES |
| COUNCILMAN BOLENDER | VOTED | YES |
| COUNCILMAN METZ | VOTED | YES |
| SUPERVISOR WEIMER | VOTED | YES |

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The resolution was thereupon unanimously adopted.

September 2, 1975

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCILMAN METZ , WHO MOVED
ITS ADOPTION, SECONDED BY COUNCILMAN
BOLENDER , TO WIT:

WHEREAS, certain on-site modifications in the construction of the
Lancaster Public Library have resulted in the necessity of change-orders, and

WHEREAS, the Town of Lancaster's architect has recommended such
change-orders be accepted by the Town of Lancaster,

NOW, THEREFORE, BE IT

RESOLVED, that the Supervisor be and hereby is authorized and
directed to execute the following change-orders:

| | | | |
|------|--|-----|-----------|
| C-10 | Replace storm water manhole (west of Condenser Enclosure) with catch basin and rework adjacent grades | Add | \$ 704.00 |
| C-11 | Reinforce partition at glass frame between Rooms 118 and 116 | Add | 338.84 |

The question of the adoption of the foregoing resolution was duly
put to a vote on roll call, which resulted as follows:

| | | |
|----------------------|-------|-----|
| COUNCILMAN BARNHARDT | VOTED | YES |
| COUNCILMAN BERENT | VOTED | YES |
| COUNCILMAN BOLENDER | VOTED | YES |
| COUNCILMAN METZ | VOTED | YES |
| SUPERVISOR WEIMER | VOTED | YES |

The resolution was thereupon unanimously adopted.

September 2, 1975

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCILMAN BERENT , WHO MOVED
ITS ADOPTION, SECONDED BY COUNCILMAN
BARNHARDT , TO WIT:

WHEREAS, a certain on-site modification in the installation of two
underground gasoline tanks and two pumps at the Lancaster Town Center has
resulted in the necessity of a change-order, and

WHEREAS, the Town of Lancaster's Engineers have recommended such
change-order be accepted by the Town of Lancaster,

NOW, THEREFORE, BE IT

RESOLVED, that the Supervisor be and hereby is authorized and
directed to execute the following change-order:

Change Order No. 1
Dan Marzec Plumbing &
Heating, Inc.

Deduct \$200 for use
of 2 Gasboy Pumps.
Add \$794 for provision
of 1 40-key console
with 10 keys

Total Add \$ 594.00

The question of the adoption of the foregoing resolution was duly
put to a vote on roll call, which resulted as follows:

| | | |
|----------------------|-------|-----|
| COUNCILMAN BARNHARDT | VOTED | YES |
| COUNCILMAN BERENT | VOTED | YES |
| COUNCILMAN BOLENDER | VOTED | YES |
| COUNCILMAN METZ | VOTED | YES |
| SUPERVISOR WEIMER | VOTED | YES |

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The resolution was thereupon unanimously adopted.

September 2, 1975

THE FOLLOWING RESOLUTION WAS OFFERED BY
COUNCILMAN BOLENDER, WHO MOVED ITS
ADOPTION, SECONDED BY COUNCILMAN
METZ, TO WIT:

WHEREAS, the Agriculture and Markets Law of the State of New York
requires the Town Boards of each Town in the State of New York to appoint
a resident or residents, designated as Enumerator or Enumerators, to
prepare a list of the persons in such Town owning or harboring dogs,

NOW, THEREFORE, BE IT

RESOLVED, that the following persons be and hereby are appointed to
the position of Dog Enumerators of the Town of Lancaster, including the
Villages of Lancaster and Depew situate within the limits of the Town of
Lancaster, for the October, 1975 Enumeration of Dogs:

Mrs. Barbara Seamans
48 Livingston Street
Lancaster, NY 14086

Mrs. Lucille M. Love
45 Banner Avenue
Lancaster, NY 14086

Mr. Roy H. Seamans
48 Livingston Street
Lancaster, NY 14086

Mr. LaVerne G. Love
45 Banner Avenue
Lancaster, NY 14086

Mrs. Nancy K. Bryce
21 Donna Lea
Lancaster, NY 14086

Mr. Thomas P. Love
45 Banner Avenue
Lancaster, NY 14086

Mrs. Catherine M. Vlahoff
18 Donna Lea
Lancaster, NY 14086

Miss Valerie Seamans
48 Livingston Street
Lancaster, NY 14086

The question of the adoption of the foregoing resolution was duly put
to a vote on roll call, which resulted as follows:

COUNCILMAN BARNHARDT VOTED YES

COUNCILMAN BERENT VOTED YES

COUNCILMAN BOLENDER VOTED YES

COUNCILMAN METZ VOTED YES

SUPERVISOR WEIMER VOTED YES

~~xxx~~
The resolution was thereupon unanimously adopted.

September 2, 1975

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCILMAN BARNHARDT , WHO MOVED
ITS ADOPTION, SECONDED BY COUNCILMAN
BERENT , TO WIT:

WHEREAS, a public hearing was held on the 18th day of August, 1975,
for the purpose of amending the Zoning Ordinance and Zoning Map of the Town of
Lancaster, and

WHEREAS, a Notice of said public hearing has been duly published and
posted, and

WHEREAS, the Planning Board of the Town of Lancaster and the Planning
Consultant have recommended the rezone of the hereinafter described parcel of
real property, and

WHEREAS, the Town of Cheektowaga has been given notice of such
public hearing, and

WHEREAS, in accordance with Section 239 (m) of the General Municipal
Law of the State of New York, the Erie County Department of Planning has
reviewed such application for rezone and made its recommendation with respect
thereto,

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Ordinance and Zoning Map of the Town of
Lancaster is hereby amended and changed so that the real property hereinafter
described is changed from an R1, Single Family Residence District, to an R2,
General Residence District, in accordance with a certain development plan
filed with the Town Clerk of the Town of Lancaster and in accordance with the
provisions of Chapter 50-126 of the Code of the Town of Lancaster entitled
"Provisional Amendments", to wit: "Within a period of six (6) months from the
approval of this provisional amendment, no building permit shall be issued
for any property within the area described by this amendment except in
accordance with the approved development plan and with all conditions and
limitations placed thereon by the Town Board, or in accordance with the zoning
regulations applicable prior to the reclassification action. Unless application
for a building permit for such special development is made within six (6) months
from the Town Board's approval and unless development of the area included in
such development plan is commenced within a period of one (1) year after the

Town Board's approval, said approval shall be void and the zoning classification shall be as it was when the petition for amendment was filed":

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Lancaster, County of Erie and State of New York, being the middle part of Lot Number ninety-six (96), Township ten (10), Range six (6) of the Indian Reservation Lands, as laid down on the maps of said Indian Reservation, and more particularly known and distinguished as Subdivision Lot Number five (5) of said Lot Number ninety-six (96), as laid out and subdivided by Tobias Witmer, Surveyor, bounded and described as follows:

BEGINNING at a point in the north line of Subdivision Lot number five (5) being the Sub Lot cited hereinbefore, said north line also being the north line of premises described in a deed recorded in the Erie County Clerk's Office in Liber 3762 of deeds at page 522, said point being three hundred sixteen and ninety-eight hundredths (316.98) feet from the point where said north line intersects the east line of Transit Road, a sixty-six (66) feet foot right of way; thence easterly along a line parallel with the north line of Lot ninety-six (96) a distance of two thousand two hundred seventy-four and fifty-four hundredths (2,274.54) feet to a point on the east line of Lot ninety-six (96); southerly along said line four hundred nine and twenty hundredths (409.20) feet to a point; thence westerly along the south line of Subdivision Lot Number five (5), cited hereinabove, two thousand two hundred eighty-six and eleven hundredths (2,296.11) feet to a point; thence northerly four hundred nine and twenty hundredths (409.20) feet to the point and place of beginning

and

BE IT FURTHER

RESOLVED, as follows:

1. That the objections and recommendations raised by the Erie County Planning Board, which were similarly raised in a prior petition for rezone of the above described premises and rejected by the Planning Board and the Planning Consultant and the Town Board at that time, are similarly not concurred in at the present time for the same reasons as set forth in the report of the Planning Board dated July 19, 1973 and the report of the Planning Consultant dated July 17, 1973, and
2. That said Ordinance Amendment be added in the minutes of the meeting of the Town Board of the Town of Lancaster held on the 2nd day of September, 1975, and
3. That a certified copy thereof be published in the Lancaster Enterprise-Journal on September 4, 1975, and
4. That affidavits of publication be filed with the Town Clerk, and

5. That a certified copy of this resolution be furnished to the Erie County Department of Planning.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

| | | |
|----------------------|-------|-----|
| COUNCILMAN BARNHARDT | VOTED | YES |
| COUNCILMAN BERENT | VOTED | YES |
| COUNCILMAN BOLENDER | VOTED | YES |
| COUNCILMAN METZ | VOTED | YES |
| SUPERVISOR WEIMER | VOTED | YES |

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The resolution was thereupon unanimously adopted.

September 2, 1975

LEGAL NOTICE
NOTICE OF ADOPTION
AMENDMENT TO ZONING ORDINANCE
TOWN OF LANCASTER

The Zoning Ordinance of the Town of Lancaster is hereby amended and the Zoning Map of the said Town is hereby changed so that the real property hereinafter described is changed from an R1, Single Family Residence District, to an R2, General Residence District, in accordance with a certain development plan filed with the Town Clerk of the Town of Lancaster and in accordance with the provisions of Chapter 50-126 of the Code of the Town of Lancaster entitled "Provisional Amendments", to wit: "Within a period of six (6) months from the approval of this provisional amendment, no building permit shall be issued for any property within the area described by this amendment except in accordance with the approved development plan and with all conditions and limitations placed thereon by the Town Board, or in accordance with the zoning regulations applicable prior to the reclassification action. Unless application for a building permit for such special development is made within six (6) months from the Town Board's approval and unless development of the area included in such development plan is commenced within a period of one (1) year after the Town Board's approval, said approval shall be void and the zoning classification shall be as it was when the petition for amendment was filed":

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Lancaster, County of Erie and State of New York, being the middle part of Lot Number ninety-six (96), Township ten (10), Range six (6) of the Indian Reservation Lands, as laid down on the maps of said Indian Reservation, and more particularly known and distinguished as Subdivision Lot Number five (5) of said Lot Number ninety-six (96), as laid out and subdivided by Tobias Witmer, Surveyor, bounded and described as follows:

BEGINNING at a point in the north line of Subdivision Lot number five (5) being the Sub Lot cited hereinbefore, said north line also being the north line of premises described in a deed recorded in the Erie County Clerk's Office in Liber 3762 of deeds at page 522, said point being three hundred sixteen and ninety-eight hundredths (316.98) feet from the point where said north line intersects the east line of Transit Road, a sixty-six (66) foot right of way; thence easterly along a line parallel with the north line of Lot ninety-six (96) a distance of two thousand two hundred seventy-four and fifty-four hundredths (2,274.54) feet to a point on the east line of Lot ninety-six (96); southerly along said line four hundred nine and twenty hundredths (409.20) feet to a point; thence westerly along the south line of Subdivision Lot Number five (5), cited hereinabove, two thousand two hundred eighty-six and eleven hundredths (2,286.11) feet to a point; thence northerly four hundred nine and twenty hundredths (409.20) feet to the point and place of beginning.

THE FOLLOWING RESOLUTION WAS OFFERED BY
COUNCILMAN BOLENDER, WHO MOVED ITS
ADOPTION, SECONDED BY COUNCILMAN
METZ , TO WIT:

RESOLVED, that the following Audited Claims be and are hereby ordered
paid from their respective accounts:

| <u>ACCOUNT</u> | <u>ORDER NUMBER</u> | <u>TOTAL AMOUNT</u> |
|-------------------------|------------------------|---------------------|
| General Funds | No. 2453 to 2521 Incl. | \$166,537.28 |
| Special District Funds | No. 45 to 48 Incl. | \$ 2,442.37 |
| Part Town Funds | No. 211 to 215 Incl. | \$ 734.69 |
| Highway Funds | No. 564 to 570 Incl. | \$ 41,663.35 |
| Trust & Agency Funds | No. 83 to 83 Incl. | \$ 2,220.00 |
| Federal Revenue Sharing | No. 115 to 127 Incl. | \$ 8,472.01 |
| Capital Fund | No. 134 to 138 Incl. | \$184,877.40 |

The question of the adoption of the foregoing resolution was duly put
to a vote on roll call, which resulted as follows:

COUNCILMAN BARNHARDT VOTED YES
COUNCILMAN BERENT VOTED YES
COUNCILMAN BOLENDER VOTED YES
COUNCILMAN METZ VOTED YES
SUPERVISOR WEIMER VOTED YES

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The resolution was thereupon unanimously adopted.

September 2, 1975

THE FOLLOWING RESOLUTION WAS OFFERED BY
COUNCILMAN METZ , WHO MOVED ITS
ADOPTION, SECONDED BY COUNCILMAN
BOLENDER , TO WIT:

RESOLVED, that the following Building Permit Applications be and are
hereby approved and the issuance of Building Permits be and are hereby
authorized:

| <u>NO.</u> | <u>NAME</u> | <u>ADDRESS</u> | <u>STRUCTURE</u> |
|------------|--------------------|--------------------|-------------------------------------|
| 100 | Ray Boreanaz | 3494 Bowen Road | ER. STL. FENCE |
| 101 | William Long | 1202 Ransom Road | ER. CONC. SILO |
| 102 | Pierre Koschtschuk | 4612 Walden Avenue | EX. STRG. BLDG. |
| 103 | Louis Schuette | 6439 Transit Road | ER. 2 SIGNS |
| 104 | Louis Berrafato | 5389 Genesee St. | EX. CONC. BLK. STRG. AND KITCHEN |
| 105 | Edward Grabski | 269 Miller St. | ER. DEM. FR. PVT. GAR. |
| 106 | Syracuse Supply | 4381 Walden Ave. | REINFORCE WEST WALL |
| 107 | Richard Reese | 2659 Wehrle Dr. | EX. FR. SING. DWLG. |

The question of the adoption of the foregoing resolution was duly put
to a vote on roll call, which resulted as follows:

COUNCILMAN BARNHARDT VOTED YES

COUNCILMAN BERENT VOTED YES

COUNCILMAN BOLENDER VOTED YES

COUNCILMAN METZ VOTED YES

SUPERVISOR WEIMER VOTED YES

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The resolution was thereupon unanimously adopted.

September 2, 1975

STATUS REPORTS ON UNFINISHED BUSINESS:1. Mrs. Albert DiGiulio - Request Lower Speed Limit - Pleasant View Dr.

On May 30, 1975 and again on August 25, 1975 the New York State Department of Transportation acknowledged receipt of the Town Board's request for an evaluation and feasibility study and indicated that they will investigate the request as their caseload permits.

2. Utilities - Feasibility Study

On September 2, 1975 the Supervisor presented a report prepared by Clarence Rainess & Co. entitled "Economic Overview of the Municipalization of a Fuel Gas Distribution System" for the Town of Lancaster and indicated that Mr. William D. Mahaney will be present at the next Town Board Meeting to answer any questions concerning the study.

3. Walden Pond Park - Federal Assistance Application

On June 3, 1975 the Town Clerk notified Congressman Kemp of this Town Project and asked for his assistance in obtaining Federal Aid.

On August 21, 1975 Mr. A. Russell Tryon, the Town Planning Consultant on this project, requested a status report from the Grant's Manager of the Niagara Frontier Parks Commission.

4. Josela Rezone Petition

On September 2, 1975 the Town Board after a Public Hearing approved this rezone.

The Town Clerk was directed to remove this item from the future Agendas of the Town Board.

5. Cemetery Road - Traffic Light at Firehall

On August 5, 1975 the Town Board adopted a resolution requesting the County of Erie to conduct a safety survey of the need for a traffic device at this location.

6. Town Line Speed Reduction

On August 18, 1975 the Town Board adopted a resolution requesting the County of Erie and the Town of Alden to join with them in requesting a survey and evaluation of the existing 55 m.p.h. speed limit on Town Line Road from Broadway north to the Erie-Lackawanna Railroad.

The Town Clerk was directed to add this item to the future

Agendas of the Town Board:

"Rezone Petition - Alice M. Morehouse"

COMMUNICATIONS:DISPOSITION

- | | |
|---|--|
| 325. Town Clerk to Town Board - Resume of actions taken in response to resolutions and directives of August 18, 1975. | R & F |
| 326. Comprehensive Health Planning Council to Town Clerk - Re: Closing of Obstetrics Dept. - St. Joseph's Intercommunity Hospital. | R & F |
| 327. Town Clerk to Town Board - Re: Appointment of Dog Enumerators. | R & F |
| 328. Supervisor to Town Board - Investment of funds - Marine Midland Bank - Western on August 18, 1975 for total dollar earnings of \$1,250.52. | R & F |
| 329. Supervisor to Town Board - Investment of funds - M & T Trust Co. on August 20, 1975 for total dollar earnings of \$2,031.25. | R & F |
| 330. Dept. of Environmental Quality to Town Board - Re: Erie County Sewer District No. 4 Operation and Maintenance after construction completion. | Highway Supt. Sewer Committee |
| 331. Kideney, Smith, Fitzgerald & Partners to Town Board - Transmittal - Change Orders Nos. 10 and 11, Library Project. | R & F |
| 332. Regional Traffic Engineer to Town Clerk - Re: Speed reduction study - Pleasant View Drive. | R & F Mrs. Albert DiGiulio |
| 333. Highway Supt. to Town Board - Transmittal - Annual Inventory of Highway Machinery, Tools, and Equipment for 1975. | Thill-Demerly Stanton and Ryan R & F |
| 334. Town Clerk to Secretary, Planning Board - Transmittal - Rezone Petition - Alice M. Morehouse (Becht). | R & F |
| 335. Secretary, Planning Board to Town Clerk - Request Planning Board be given room for files and working space. | Cap. Imprv. Committee |

ADJOURNMENT:

ON MOTION OF SUPERVISOR WEIMER, AND SECONDED BY THE ENTIRE TOWN BOARD
AND CARRIED, the meeting was adjourned at 8:25 P.M. out of respect to:

CHARLOTTE A. NUWER

MARIA A. CONDELLO

Signed

Robert P. Thill

Robert P. Thill, Town Clerk